

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

Sargeant Trading LTD, Sargeant Marine, Inc.

Misc No. 15-477 (JAG)

Petitioners

v.

Betterroads Asphalt Corp.

Respondent

MOTION TO QUASH SUBPOENA

TO THE HONORABLE COURT:

COMES NOW Respondent, **Betterroads Asphalt Corp. ("Betterroads")**, through their undersigned attorney, and respectfully informs and requests as follows:

1. On October 7, 2015, Sargeant Trading LTD and Sargeant Marine, Inc. (jointly referred to as "Sargeant") filed a "Petition for Registration and Enforcement of Judgment in 15 civil 4879(JPO) U.S. District Court, Southern District of New York" (**Docket 1**) before this Court requesting that the Judgment from the Southern District of New York in case no. 15-cv-4879(JPO) be registered in this Court, and subsequently that this Court order the execution and enforcement of the final Judgment.

2. The undersigned attorney recently became aware of a "Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action" and a "Subpoena to Testify at a Deposition in a Civil Action" addressed to "Betterroads Asphalt Corp. and/or Jorge Luis Diaz Irizarry" delivered on November 3, 2015 to Mrs. Evelyn Rodríguez Febus, executive assistant for Betterroads, who was not authorized to receive a subpoena on behalf of Mr. Jorge L. Diaz Irizarry. Therefore, the subpoenas addressed to Mr. Diaz were not properly served pursuant to Fed. R. Civ. P. 45(b)(1).

3. Upon reviewing the Docket Report of case no. 15-cv-4879(JPO), Betterroads became aware that petitioner in that case had filed an Affidavit of Service from the server stating that the service of process was executed on July 10, 2015 through Cristina M. Hernandez-Ramos, who was "authorized to accept service on behalf of Defendant". (**Exhibit 1**). However, such statement is false and on June 24, 2015 Mrs. Hernandez had clearly informed Sargeant's counsel, Mr. John D. Kimball, by email, that she was "not authorized to accept service on behalf of Betterroads." (**Exhibit 2**).

4. Therefore, Respondent is currently considering filing a motion for relief from judgment pursuant to Fed. R. Civ. P. 60(b)(4) in case no. 15-cv-4879(JPO) for lack of personal jurisdiction for insufficient process of service according to 9 U.S.C. § 9, which makes the Judgment from the U.S. District Court, Southern District of New York void. The Southern District of New York lacked jurisdiction to render a Judgment since the person upon service of process was executed was not authorized to receive such service.

5. Since the subpoenas served upon Betterroads are based on a Judgment that will be contested for being void, no discovery should be allowed until the issue is properly resolved. Consequently, Betterroads has notified Sargeant's counsel of its intention to file such motion for relief from judgment and has requested the suspension of the requests for discovery made upon the subpoenas issued in this case.

RESPECTFYLLY SUBMITTED.

I HEREBY CERTIFY that on this date I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys of record.

In Guaynabo, Puerto Rico, this 30th day of November, 2015.

NOLLA, PALOU & CASELLAS, LLC

Attorneys for Betterroads Asphalt Corp.

PO Box 195287

San Juan, Puerto Rico 00919-5287

Telephone: 787-625-6535

Fax: 787-625-6530

/s Luis E. Palou-Balsa

Luis E. Palou-Balsa

USDC-PR 210503

lpb@npclawyers.com